



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,439	06/29/2001	Li Zhang	BS00-282	5284

7590 12/14/2005
WITHERS & KEYS, LLC
P.O. BOX 71355
MARIETTA, GA 30007-1355

EXAMINER

AVELLINO, JOSEPH E

ART UNIT PAPER NUMBER

2143

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/893,439

Applicant(s)

ZHANG ET AL.

Examiner

Joseph E. Avellino

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/29/05.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-6, and 8-30 are presented for examination.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 8, 2005 has been entered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 25 recites "the c-center" which lacks antecedent basis. It is believed that this is a typographical error and should read "the e-center" and will be interpreted as such. Correction is required.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1, 2, and 5 of copending application no. 09/893,437 recite each and every limitation of claims 1-6, and 8-30 and as such anticipate claims 1-6 and 8-30.

8. "A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or **anticipated by**, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus)." ELI LILLY AND

Art Unit: 2143

COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Court, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, and 8-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luzeski et al. (USPN 6,430,177) (cited by Applicant in IDS) (hereinafter Luzeski) in view of Qiu et al. (USPN 6,684,251) (hereinafter Qiu) (Applicant cited a document in IDS 6,384,251 to Qiu however this patent is directed to a procedure for oxidizing organic compounds; Qiu was cited in copending application '437 and this typographical error is not believed to be a deliberate act of deception on the Office).

10. Referring to exemplary claim 1, Luzeski discloses a system for converged service creation and execution, the system comprising:

an application server (i.e. messaging platform 10);

service session manager logic (i.e. session manager 10-5), the service session manager logic in communication with the application server (i.e. the session manager is inherently in communication with the server since it is housed in the server) and wherein the service session manager logic accesses resources based on whether requests for

Art Unit: 2143

services during a session are for voice-oriented or non-voice-oriented services (i.e. email or voicemail) (Figure 4H; col. 18, lines 50-67);

a converged service creation and execution environment messaging bus, the messaging bus in communication with the service session manager logic to enable the service logic to access the resources (this is an inherent feature to the messaging platform 10, otherwise the components, the message stores, the session manager, and gateways, would not be able to communicate with one another) (col. 5, lines 9-45);

a plurality of service servers including servers that provide the resources for the voice-oriented and non-voice oriented services (i.e. the email and voicemail message stores), the plurality of service servers in communication with the converged service creation messaging bus to enable access to resources for the service manager logic, wherein one of the servers is a media server (i.e. email and voicemail are both considered media, and since the message store "serves" the messages to the client, they are clearly shown to be media servers) (Figure 1, ref. 10-2,10-8,10-9).

Luzeski does not specifically teach a softswitch server in communication with the service session manager logic, the message bus, and a customer network, which establishes a connection between the customer network and the plurality of service servers to provide voice-oriented and non-voice-oriented services to the customer network, and wherein upon the service session manager logic receiving a request for a media-on-demand from the customer network, the softswitch receives an instruction from the service session manager logic, and responds to the instruction by establishing a media channel between the media server and the customer network. In analogous art,

Art Unit: 2143

Qiu discloses another converged service creation network, which includes a softswitch server (i.e. switch fabric) in communication with the service session manager logic (i.e. service session manager 271), the message bus (i.e. first segment 131), and a customer network (i.e. user communication path 151) (see Figure 2), which establishes a connection between the customer network 151 and the plurality of service servers (i.e. destination) to provide services to the customer network, and wherein upon the service session manager logic receiving a request for a media-on-demand from the customer network (i.e. receive the service request 110 from the user system 141) (col. 3, lines 63-65), the softswitch receives an instruction from the service session manager logic (col. 4, lines 7-43), and responds to the instruction by establishing a media channel between the media server and the customer network (col. 4, lines 29-43). Although Qiu does not explicitly teach that the softswitch provides voice-oriented and non-voice-oriented services, the combination of Qiu with Luzeski's message stores would allow the user systems of Qiu 141 the ability to retrieve both voice-oriented and non-voice-oriented messages from the message stores of Luzeski.

It would have been obvious to one of ordinary skill in the art to combine the teaching of Qiu with Luzeski in order to provide the system of Luzeski the ability to concurrently set-up connections, thereby reducing setup time and effectively reducing processing burden upon the session manager of Luzeski, as well as improving customer satisfaction by reducing post-dial delay, as supported by Qiu (e.g. abstract; col. 3, lines 1-3).

Art Unit: 2143

11. Referring to claims 2-6, Luzeski discloses a plurality of open and proprietary APIs (i.e. basic set of calls) (col. 10, lines 12-65; col. 11, lines 10-14; col. 23, line 35 to col. 24, line 28) which provide broadband and narrowband voice and non voice oriented services (col. 1, lines 40-44).

12. Referring to claims 8-10, Luzeski in view of Qiu teach the invention substantively as described in claim 1, but do not specifically disclose that the plurality of service server include a QoS server or a conference server, however these are well known types of servers in the art in order to provide a plurality of differing services to the end user. By this rationale, "Official Notice" is taken that both the concept and advantages of providing for a conference server or a QoS server is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to modify the teaching of Luzeski with Qiu since Luzeski discloses a gateway for interfacing with other various servers (col. 5, lines 30-35), this would lead one of ordinary skill in the art to search for other servers to be connected to the messaging platform, eventually realizing the benefits of a QoS server and a conference server to provide more services to the end user.

13. Referring to claim 11, Luzeski discloses a network portal (the Office takes the term "network portal" as "a gateway to a network") (i.e. web server platform 12) (Figure 1); and

Art Unit: 2143

a network application, the network application in communication with the network portal (i.e. session manager 10-5, which is an application running on the messaging platform 10) (Figure 1).

14. Claims 12-17 are rejected for similar reasons as stated above.

15. Referring to claims 18, 19, and 21, Luzeski discloses the access device (i.e. PC, an IP appliance 20) includes a user agent (i.e. web browser), which receives a user applet from the network portal (i.e. from applet server 12-1) which corresponds to a network application of the plurality of network applications (col. 5, lines 45-62; col. 6, lines 1-5).

16. Referring to claim 20, Luzeski discloses an access device is a residential gateway (i.e. firewall/proxy server 18) (Figure 1).

17. Claims 21-30 are rejected for similar reasons as stated above. Furthermore the Office takes the term "e-center" to be construed as a network services manager (i.e. the CMC API of messaging platform 10).

Response to Arguments

18. Applicant's arguments with respect to claims 1-6 and 8-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Again, it is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art. As it is Applicant's right to continue to claim as broadly as possible their invention. It is also the Examiner's right to continue to interpret the claim language as broadly as possible. It is the Examiner's position that the detailed functionality (i.e. details of the usage of the network portals and e-centers) that allows for Applicant's invention to overcome the prior art used in the rejection, fails to differentiate in detail how these features are unique. Thus, it is clear that Applicant must submit amendments to the claims in order to distinguish over the prior art use in the rejection that discloses different features of Applicant's claim invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

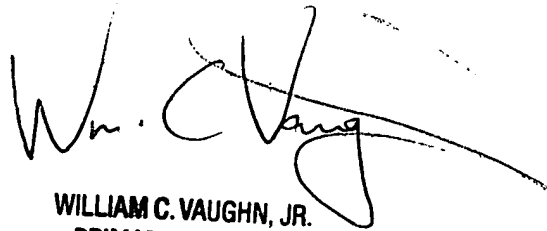
Art Unit: 2143

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JEA
December 1, 2005


WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER